SBCivil Writ Petition No.551/1994

Sashi Dharan
Vs.
The Superintending Engineer, PWD, Jodhpur & Ors.

Date of Order :: 1.5.2007

HON'BLE MR.JUSTICE GOVIND MATHUR

Mr. D.K.Parihar, for the petitioner.
Mr. Shyam Ladrecha, Addl. Govt. Advocate.

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A challenge to the award dated 27.10.1993 passed by Labour Court, Jodhpur is given by the workman whereby his termination from service is held just and valid by treating him not in continuous service of the respondent employer in light of the judgment of this Court in the case of Vijay Singh v. State of Rajasthan, reported in 1988 Labour & Industrial Cases, 1125. In the case of Vijay Singh (supra) this Court held that if a workman has worked in different sub-divisions of the Public Works Department then that amounts to serve different employers and period of service with different employers cannot be clubbed to compute continuous service as defined under Section 25-B of the Industrial Disputes Act, 1947 (hereinafter referred to as “the Act of 1947”).

In present matter though the petitioner worked in different sub-divisions but the Labour Court nowhere under the award impugned discussed that how the different sub-divisions were treated as different

employers. The Labour Court just by placing reliance upon the judgment of Vijay Singh (supra) treated that the petitioner was not in continuous employment of the respondents and, therefore, the provisions of Section 25-F of the Act of 1947 are having no application. It was necessary for the Labour Court to give specific finding that every sub-division where the petitioner worked is a separate employer and, therefore, the services rendered in different sub-divisions cannot be clubbed to compute continuous service as required under Section 25-B of the Act of 1947.

In view of it the award impugned is set aside with a direction to the Labour Court, Jodhpur to decide the industrial dispute referred to it by the appropriate government in the dispute concerned afresh.

The writ petition is disposed of accordingly.

(GOVIND MATHUR),J.

j.g